The Intellectual Property (IP) assets of most businesses constitute their most valuable corporate and commercial assets by far. Valuations of top legal entities and businesses routinely reveal that the value of a business is no longer determined by physical stock and assets (as it may have been in the past), but rather by the value, management, effective control and extent of the commercial exploitation of its IP assets.

The effective creation and/or acquisition, protection, management, exploitation, licensing and commercialization of valuable IP assets and the enforcement of resulting statutory monopolies are key cornerstones upon which today’s successful businesses are built and developed. This counts for start-ups with protectable technology and also for the largest listed companies with multi-national interests. Large listed companies often have organizational structures which grow and expand dynamically as new entities (and their IP assets) are acquired and incorporated into the group. The development and implementation of an IP policy dealing with the acquisition of new IP, the management, protection and commercialization of existing IP and the enforcement of IP rights are of utmost importance to any business. This policy should constitute a live and fluid strategy that grows and develops with your business and commercial objectives. The ongoing strategic management of IP assets is critical for success.
Where companies are concerned, the management of IP rights and assets are often left to mid-level managers and general legal counsel who are not necessarily experienced in IP law. Monthly reports are typically presented to the relevant board of directors and in many instances decisions on how to proceed in matters relating to the formalization of IP acquisitions and the implementation of statutory IP protection and enforcement programs are not necessarily directed by the board, but rather at a mid-management level. Important IP considerations such as transfer pricing, exchange control regulations, appropriate valuations and IP due diligences are often not addressed properly before commercial transactions are entered into. IP laws differ from country to country and with South African companies entering more international and indeed other African markets, the effective strategic management of IP assets is dependent upon expert advice on pertinent legal aspects in each jurisdiction concerned by expert IP counsel.

It is important that IP assets are valued, recognized and managed by the top management level of a company to reduce commercial risks and ensure that the company’s IP development, protection and commercialization strategies are in line with the commercial strategy and objectives of each company and group of companies (for larger organizations).

In the King IV Report™ which presents good corporate governance guidelines for companies, the term ‘Intellectual Property’ does not feature. Yet, it is perhaps the single most important and valuable aspect of any modern business. The mismanagement of IP assets introduces massive commercial risks for shareholders and directors alike. In instances where a company does not have the luxury of having an expert IP counsel on board, it is imperative that the directors are guided by the expert advice of outside IP counsel.
At Adams & Adams, we have the team, support, systems and the proven track record as specialists and leaders in the field of Intellectual Property law to assist businesses with the development, implementation and strategic management of their IP portfolios. Our firm offers a world class service rendering which is relied upon by many of the top companies and industry leaders worldwide. We pride ourselves on our excellent client relationships and we are passionate about what we do – assisting our clients with the development, protection, management, enforcement and commercialization of their valuable IP assets.